

# **Initial Analysis and Recommendations to Reduce Evictions in Virginia**

Submitted by DHCD – January 2020

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## EXECUTIVE SUMMARY

Governor Northam and the Virginia General Assembly have made reducing evictions a policy priority for the Commonwealth. Governor Northam signed executive order 25 in November 2018 which made reducing the rate of evictions a housing priority for state agencies. Recognizing the benefits of eviction reduction efforts, the General Assembly passed and Governor signed a legislative package during the 2019 session to mitigate the effects of evictions on tenants and landlords. The Virginia Department of Housing and Community Development (DHCD) was directed to work with the Virginia Housing Commission to identify the impact of the legislation and recommend if any further action is necessary to complement these efforts. DHCD conducted an initial needs assessment of state and local eviction prevention and diversion resources. DHCD also looked at preliminary best practices based on work of other states and local governments in the eviction prevention and diversion space. DHCD found that approximately one third of Virginians rent a home and half of renters are cost burdened and pay 30 percent or more of their income on rent. One in five renters are severely cost burdened and pay more than 50 percent of their income on rent. Localities with higher than average eviction rates tend to have more cost burdened renters and a higher percentage of rental units compared to the rest of the state.

Based on the information available, DHCD makes the following recommendations at this time to further advance solutions for helping to prevent and divert evictions in the Commonwealth:

1. Design and Implement an Eviction Prevention and Diversion Pilot Program
2. Implement a Local Eviction Data Collection System

In addition, DHCD was asked to consider federal, state, and local resources, including but not limited to: (a) current counseling and social services provided by state agencies and authorities; (b) the potential needs of the cities of Richmond, Newport News, Hampton, Norfolk, and Chesapeake, as well as eviction prevention and diversion programs established in the cities of Arlington and Richmond; (c) data collected pursuant to [Senate Bill 1450](#); and, (d) eviction prevention and diversion programs in other states. The Department is directed to analyze and recommend how to better coordinate current public and private resources and programs to reduce eviction rates in Virginia, as well as how current prevention efforts can coordinate with existing and newly created eviction diversion laws and programs.

DHCD has identified several indicators that contribute to an eviction. This list is not exhaustive; however, these indicators have been identified from previous studies conducted. This includes:

- Cost burdened families
- Lack of legal representation
- Job loss
- Residential instability and poor housing quality
- Poor physical and mental health

In order to fulfill the General Assembly's request, DHCD conducted individual interviews and collected data to inform decision-making, assessed existing eviction prevention and diversion resources, and participated in the Richmond Eviction Diversion Program Planning meetings. Using the above resources, DHCD has identified current eviction prevention and diversion efforts across the state and analyzed the potential need for an eviction diversion and prevention pilot program. The analysis: (1) summarizes what contributes to evictions and their effects; (2) outlines statewide and local eviction resources currently available; (3) recommends areas for improvement; (4) outlines current eviction prevention and diversion programs; and (5) provides next steps for eviction mitigation in the Commonwealth.

The legislative package that passed during the 2019 General Assembly Session is in the early stages of implementation, and its impact on evictions in the Commonwealth is still being realized. DHCD will continue to work with the Virginia Housing Commission and other stakeholders to gather data and other information to evaluate the effects of the legislation on evictions as well as provide further recommendations that complement these efforts.

## BACKGROUND

*This section explains the eviction crisis facing the Southeast, what contributes to eviction and the consequences of eviction. It also provides a snapshot of the current rental market and eviction rate in Virginia.*<sup>1</sup>

### Virginia's Eviction Problem

In 2016, Matthew Desmond, a professor of sociology at Princeton University, released his groundbreaking examination of eviction in America in his book, *Evicted: Poverty and Profit in the American City*. While those in the housing and homelessness arena had long recognized the problems created by eviction, Desmond's book drew national attention to the crisis. His work with the Eviction Lab to collect and analyze national eviction data dating back to 2000 identified areas of the country with the highest eviction rates. Many large cities with the highest eviction rates are located in the Southeast, with five of the top ten located in Virginia. While DHCD is working to collect eviction data for the Commonwealth, at this time there are still gaps in current data. Consequently, this report uses Desmond's work in Milwaukee and local case studies to better understand evictions in Virginia.

### Contributors to Eviction

#### Cost Burden

Some studies indicate that evictions are not only due to a reduction in income, but can start with financially unstable housing to begin with. In 2013, one in eight low-income renters could not pay all of their rent every month.<sup>2</sup> Renters who tend to pay more than their income in rent can eventually end up in an eviction if they fall behind on a payment due to a medical emergency or other family cost. A household is cost burdened if it dedicates more than 30 percent of its income to housing costs including rent and utilities. Households are severely cost burdened if housing costs make up 50 percent or more of a household's income. Nationally, from 1991 to 2013, the number of households who were severely cost burdened grew from 21 percent in 1991 to 30 percent in 2013.<sup>3</sup> In Virginia, between 2013 and 2017, approximately half of rental households were paying 30 percent or more of their income towards rent with roughly one in five spending more than 50 percent of their income on rent.<sup>4</sup>

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<sup>1</sup> This report was prepared and researched by DHCD staff Elizabeth Spach and Adele McClure

<sup>2</sup> Desmond, M. (2015). "Unaffordable America: Poverty, housing, and eviction. Institute for Research and Poverty." *Fast Focus*, 22. Retrieved from <https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf>

<sup>3</sup> Ibid.

<sup>4</sup> ACS 5-Year Estimates 2013-2017

Rising rent and utility costs, stagnating wages, and lower levels of federal assistance factors that can lead to a cost-burdened household. Put simply, wages are not keeping up with rising rents. Since the 2000s, median rents in the Southern United States increased by 26 percent and utility costs have more than doubled. Wages, meanwhile, only rose between six and 12 percent, depending on an individual's education level. Declining federal assistance and subsidies in the form of Section 8 vouchers, public housing, and project-based rental assistance have left two-thirds of low-income renters without monthly rent assistance.<sup>5</sup> Rising rents, in combination with stagnating wages, have made housing unaffordable for many renters.

High housing costs disproportionately affect low-income, minority, and single mother households. Over half of low-income renters nationally dedicate at least half of their income to housing costs and a quarter spend more than 70 percent. African American and Latinx households disproportionately spend more on rent with one in five households spending at least half of their income on rent.<sup>6</sup> For families who are severely cost burdened, something as simple as a reduction in work hours or benefits could be the difference between paying rent and being evicted.

### **Lack of Legal Representation**

Most tenants at risk of formal eviction do not have access to legal representation versus landlords who are more likely to have legal representation. Full legal representation can decrease the likelihood of an eviction and mitigate negative impacts should an eviction occur. In Boston, two-thirds of fully represented clients retained possession of their homes compared to one-third of clients with limited legal assistance.<sup>7</sup> In New York City, tenants represented by attorneys were four times more likely to retain possession of their homes than those not represented. Legal representation can also have significant cost savings. In Philadelphia, every dollar spent providing legal aid to a low-income tenant was associated with a benefit of at least \$12.74.<sup>8</sup> While not as effective, limited legal representation in the form of mediation or legal counseling can slightly improve eviction outcomes in certain situations.<sup>9</sup> Without adequate legal services in eviction court, tenants are more likely to be evicted from their household.

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<sup>5</sup> Desmond, M. (2015). "Unaffordable America"

<sup>6</sup> Ibid.

<sup>7</sup> Desmond, M., Bell, M. (2015). "Housing, Poverty, and the Law." *The Annual Review of Law and Social Science*, 11, 15-35. 10.1146/annurev-lawsocsci-120814-121623

<sup>8</sup> "Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants." (2018). Stout, LLC for the Philadelphia Bar Association's Civil Gideon and Access to Justice Task Force. Retrieved from:

<https://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/PhiladelphiaEvictionsReport.pdf>

<sup>9</sup> Ibid.

## Household Size

Familial status is a protected class under the Fair Housing Act meaning that landlords cannot discriminate based on family size. Nonetheless, studies illustrate that families with children are more likely to receive an eviction notice.<sup>10</sup> In Milwaukee, a renter with two children has roughly a 12 percent chance of being evicted compared to 9.5 percent for a renter with one child and about seven percent for a childless renter.<sup>11</sup>

## Eviction Consequences and Impacts

### Job Loss

Forced removal, in the form of eviction, landlord foreclosure, or housing condemnation is a strong predictor of job loss. Among low-income Milwaukee renters, the likelihood of laid-off was 11 to 22 percentage points higher for those who experienced a forced move in the last two years compared to those without a forced move.<sup>12</sup> Job displacement has significant implications for workers. Researchers found that workers with interrupted job histories made roughly 17 percent less than if they were continuously employed.<sup>13</sup> This reduction in income can have long lasting consequences with some workers experiencing lower incomes up to 20 years post displacement.

### Residential Instability and Poor Housing Quality

Evicted renters are more likely to have future housing instability, move to poor quality housing, and live in less safe neighborhoods than those not evicted. In addition, renters who experienced a forced move were 1.3 times more likely to move again compared to those without a forced move.<sup>14</sup> These renters were 20 to 70 percent more likely to have long-term housing problems in the future.<sup>15</sup> Renters post-eviction also tend to move into more disadvantaged neighborhoods. In Milwaukee, a forced move was associated with a 5.4 percentage point increase in poverty and a 1.8 percent increase in crime than those who moved by choice.<sup>16</sup> African American renters and single mother households experience future

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<sup>10</sup> Desmond, M., An, W., Winkler, R., & Ferriss, T. (2013). "Evicting Children." *Social Forces*, 92(1), 303-327. doi: 10.1093/sf/sot047

<sup>11</sup> Desmond, M. and Gershenson, C. (2016). "Who gets evicted?"

<sup>12</sup> Desmond, M., & Gershenson, C. (2016). "Housing and Employment Insecurity among the Working Poor." *Social Problems*, 63, 46-67. doi: 10.1093/socpro/spv025

<sup>13</sup> Ibid.

<sup>14</sup> Desmond, M., Gershenson, C., & Kiviat, B. (2015). "Forced Relocation and Residential Instability among Urban Renters." *Social Service Review*, June 2015. 0037-7961/2015/8902-0001\$10.00

<sup>15</sup> Desmond, M., & Shollenberger, T. (2015). "Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences." *Demography*, 52, 1751-1772. DOI 10.1007/s13524-015-0419-9

<sup>16</sup> Ibid.

displacement, poor quality neighborhoods, and higher levels of crime at a higher rate than do white renters in similar circumstances.

### Poor Physical and Mental Health

Unstable housing and eviction are associated with poor mental and physical health. A year following eviction, mothers reported being 20 percent more likely to be depressed compared to their peers who were not evicted. These higher levels of depression existed even two years after their eviction.<sup>17</sup>

### A Snapshot of Virginia Evictions

Evictions are both formal and informal. Formal evictions go through the court system while informal evictions occur outside of the legal system through lockouts, threats, or verbal evictions. Informal evictions are difficult to measure since they do not go through the formal court process. Since informal evictions make up as much as half of all evictions, formal eviction counts likely underestimate the total number of evictions.<sup>18</sup> Below is a summary of Virginia’s rental housing market and eviction rates.

### Renter Profile and Cost Burden

Approximately one-third of Virginians rent a home. Half of renters statewide pay 30 percent or more of their income on rent. Low-income renters who fall between 30 and 80 percent of the Area Median Income (AMI) feel cost burden most acutely in housing transactions.

*Table 1: Virginia Renter Profile by Income Level*

Income Level	% housing problems*	% cost burdened (>30% income on rent)	% severely cost burdened (>50% income on rent)
Extremely Low-income (30% AMI)	77%	76%	65%
Very Low-income (50% AMI)	82%	80%	34%
Low-income (80% AMI)	54%	50%	6%

Source: HUD’s Comprehensive Housing Affordability Strategy (2012-2016)

<https://www.huduser.gov/portal/datasets/cp.html>

\*includes at least 1 of 4 of the following housing problems: incomplete kitchen facilities; incomplete plumbing facilities; more than 1 person per room; and/or cost burden greater than 30 percent

<sup>17</sup> Desmond, M. (2015). “Unaffordable America”

<sup>18</sup> Desmond, M., & Shollenberger, T. (2015). “Forced Displacement from Rental Housing.”

Three out of every four extremely low-income renters are cost burdened and over 60 percent are severely cost burdened. Low-income renters are also more likely to experience housing problems such as overcrowding, incomplete plumbing, or high cost burdens.

### Evictions in Virginia

Five out of the top ten evicting cities in America are located in Virginia: Richmond, Hampton, Newport News, Norfolk and Chesapeake. Petersburg has the second highest eviction rate for a mid-sized city. Localities in Virginia with higher eviction rates tend to have a higher percentage of rental units and more cost burdened renters. Over half of all households are renter occupied in Petersburg, Norfolk, and Richmond. Most localities with above average eviction rates have a higher percentage of renters who pay 30 percent or more of their income on housing except for Chesapeake and Hampton.<sup>19</sup> This is not necessarily representative of eviction trends in the entire Commonwealth. In Richmond, high eviction rates have a strong correlation with majority minority schools and higher foreclosure rates.<sup>20</sup> A table depicting eviction rates, rental occupied units, and cost burdened renters for localities with the highest eviction rates is below.

*Table 2: Statewide Eviction and Renter Data including Selected Localities*

	Eviction Rate (2016)	% Rental Units (2017)	% Cost Burdened Renters (2017)+
Chesapeake	7.9%	27%	51%
Hampton	10.49%	45%	57%
Newport News	10.23%	50%	52%
Norfolk	8.66%	57%	50%
Richmond	11.44%	57%	52%
Petersburg*	17.56%	58%	55%
Danville*	7.2%	47%	43%
Virginia	5.12%	33%	44%

\*ACS 1-Year Estimates 2017; used 5-Year Estimates 2013-2017 (DP04) since 1-Year Estimates were not available +only includes households for which ACS calculated a gross rental adjusted percent income (GRAPI); cost burdened defined as paying 30 percent or more of income on rent

<sup>19</sup> Data gathered from the Princeton Eviction Lab (2018) and ACS 1-Year Estimates 2017

<sup>20</sup> Howell, K. (2019). "Eviction and Educational Instability in Richmond, Virginia."; Howell, K. (2019). "Eviction and the Rental Housing Market."; Rogers, W. (2019). "The Connections between Evictions and Foreclosures in Richmond."; Teresa, B.F. (2019): "The Geography of Eviction in Richmond: Beyond Poverty." RVA Eviction Lab. Retrieved from: <https://cura.vcu.edu/ongoing-projects/rva-eviction-lab/>

## SNAPSHOT OF VIRGINIA’S EXISTING RESOURCES

*This section summarizes current eviction prevention and diversion services based on agency partners and stakeholder interviews. DHCD is currently working to capture all existing resources in Virginia and will continue to document resources as more information is gathered.<sup>21</sup>*

Eviction interventions fall into two categories: prevention and diversion. Eviction prevention occurs prior to a landlord filing an unlawful detainer against a tenant while eviction diversion tries to divert a formal eviction once a landlord files an unlawful detainer. Eviction prevention and diversion services can take many forms. A 2018 eviction report by Philadelphia, PA separates eviction services into four categories: 1) outreach and education, 2) resources and supports, 3) housing standards and enforcement, and 4) legal processes and policies.<sup>22</sup> *Figure 1* below outlines potential interventions for each category.

*Figure 1: Types of Eviction Prevention and Diversion Resources*

<b>Outreach and Education</b> (state/local)	<b>Resources and Supports</b> (federal/state/local)	<b>Housing Standards and Enforcement</b> (state/local)	<b>Legal Processes and Policies</b> (state/local)
-Easy Access -Public Education -Direct Outreach	-Rental Subsidies -Loans for Repairs -Data on Properties	-Unlicensed Properties Code Changes -Expanded Inspection	-Good Cause Evictions -Mediation -Rental Documents -Legal Representation -Sealing Records -Court Accessibility

*“Mayor’s Task Force on Eviction Prevention and Response.” Philadelphia, PA (2018)*

Outreach and education efforts aim to help tenants understand their rights and can include public education, direct outreach to tenants, or informational campaigns. The City of Richmond Eviction Diversion Pilot Program, for example, is attaching a *rent payment resources available* form to unlawful detainers as part of their Eviction Diversion Program. Resources and supports in the form of rental subsidies, affordable housing opportunities, and loans for repairs can lower housing cost burdens and help tenants continue rent payments in the event of an emergency.

Localities can also bolster housing standards and enforcement to address poor living conditions through code changes, expanded inspections, and mitigating unlicensed properties. Once an

<sup>21</sup> Several agencies and organizations provided information on existing resources including: Department of Behavioral Health and Developmental Services (DBHDS), Department of Social Services (DSS), Arlington County, City of Hampton, City of Richmond, City of Petersburg, Area Congregations Together in Services (ACTS), and the Central Virginia Legal Aid Society, Petersburg and Richmond offices.

<sup>22</sup> “Mayor’s Task Force on Eviction Prevention and Response.” (2018). City of Philadelphia. Retrieved from <https://www.phila.gov/hhs/PDF/Mayors%20Task%20Force%20on%20Eviction%20Prevention%20and%20Response-Report.pdf>

unlawful detainer begins the court eviction process, policies encouraging legal representation, mediation, and record sealing can divert current evictions and prevent future ones.

## Statewide Resources

There are several statewide resources that can affect the rate of evictions. These include outreach and coordinated entry through various state agency supported social service programs and legal aid organizations. While some current resources exist for those facing eviction, many resources are either tangentially related to eviction, have strict eligibility requirements, or begin later in the process. An overview of current statewide programs separated by intervention type is below.

### Outreach and Education

#### *2-1-1 VIRGINIA*

2-1-1 VIRGINIA provides free information on available community services ranging from rental assistance to child care services. Government, nonprofit, and community-based organizations are included in the 2-1-1 database to assist with referrals. It is incumbent on those organizations and agencies to keep their information up-to-date. The Virginia Department of Social Services administers 2-1-1 VIRGINIA in partnership with the Council of Community Services, the Planning Council, the United Way of Central Virginia, and the United Way of Greater Richmond and Petersburg.<sup>23</sup> While 2-1-1- is not an exhaustive list of all eviction resources, it does provide individuals with information on financial assistance and housing resources. However, many of those needing information and referrals to available community resources do not know this 24/7 service is available.

#### *Virginia Poverty Law Center Eviction Helpline*

In August 2019, the Virginia Poverty Law Center (VPLC) launched their Eviction Legal Helpline to provide free legal information over the phone to tenants facing evictions. The Hotline is run mostly by volunteer attorneys who are in charge of gathering basic information and documentation; opening case files; and confirming the facts of the case and providing advice using VPLC materials.<sup>24</sup>

#### *Virginia Housing Development Authority (VHDA)*

VHDA offers several tenant education classes and resources to assist tenants. In 2019, they launched their “How to be a Successful Renter” guide which explains topics such as financial

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<sup>23</sup> “About 2-1-1- Virginia.” Virginia Department of Social Services and Partner Agencies. Retrieved from: <https://www.211virginia.org/consumer/about.php>

<sup>24</sup> “Volunteers Needed for Eviction Legal Helpline.” (2019). Virginia Poverty Law Center. Retrieved from: <https://vplc.org/volunteers-needed-for-eviction-legal-helpline/>

management, apartment searching, the application process, leases, and renter right and responsibilities.<sup>25</sup> Further renter resources including VHDA’s affordable housing search engine “VirginiaHousingSearch.com” is found on the VHDA website.

## **Housing Standards and Enforcement**

### *Virginia Uniform Statewide Building Code (USBC) and Residential Rental Inspection Districts*

Many housing standards and enforcement mechanisms are handled on the local level through code enforcement divisions and inspections. The Uniform Statewide Building Code (USBC) is a statewide regulation that governs the construction of buildings in Virginia. As part of the USBC, the Virginia Maintenance Code (VMC) is adopted at the discretion of local governments and governs the maintenance of buildings in Virginia. Certain housing conditions and deficiencies fall outside the scope of the USBC/VMC; however, Section 104.1 of the USBC provides the ability for a tenant of a rental property to file a complaint with the Building Official. This is true even if the locality does not enforce the Maintenance Code.

The Code of Virginia gives localities the authority to adopt an ordinance to inspect residential rental dwelling units for compliance with the USBC/VMC within a designated rental inspection district. Properties under the ordinance are inspected: 1) to protect the public health, safety and welfare of the residential dwelling units; 2) because they are blighted or to prevent deterioration of units; and 3) to maintain safe, decent and sanitary living. Other rental units outside of the rental inspection district can be inspected if they include either of the above characteristics.<sup>26</sup>

While the Virginia Maintenance Code and rental inspection district ordinances provide a mechanism for rental inspection and property maintenance, local governments have varying capacities when it comes to local code enforcement and not all localities adopt rental inspection district ordinances or the Virginia Maintenance Code. Some localities expressed challenges in identifying landlords and rental properties with many trying to create rental registries to help identify all landlords.

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<sup>25</sup> “How to be a Successful Renter: Your guide to understanding all there is to know about renting.” (2019). Virginia Housing Development Authority. Retrieved from:

<https://www.vhda.com/Renters/Documents/RenterHandbook.pdf>

<sup>26</sup> “Virginia Maintenance Code: Part III of the Virginia Uniform Statewide Building Code.” (2015). Department of Housing and Community Development. Retrieved from:

<https://www.dhcd.virginia.gov/sites/default/files/Docx/building-codes-regulations/archive-codes/2015/2015-virginia-maintenace-code-part-3.pdf>

## Legal Resources for Tenants

Virginia currently does not offer a right to an attorney for indigent tenants in civil cases. Legal aid organizations and self-help websites are available statewide for tenants and landlords in the eviction process.

### *Legal Aid Programs*

Virginia has nine regional legal aid programs that serve low-income families and individuals across the state in addition to the statewide support center, the Virginia Poverty Law Center. *Figure: Legal Aid Program Map by Service Area* illustrates the service area for each legal aid program in Virginia.

Each legal aid program is funded by a combination of state general revenue appropriations, state filing fee appropriations, federal funds, the United Way, local government, and private donors. In 2019, the General Assembly expanded Legal Aid funding by \$1.275 million annually. This funding created 17 additional housing attorneys in legal aid offices across the Commonwealth. Staffs in each legal aid program range from 8 to 80 employees, depending on the location. Legal aid programs assist with a variety of low-income civil needs including landlord and tenant disputes. A comprehensive pro-bono attorney network established by bar associations across the state in conjunction with law school pro-bono programs assist with the low-income caseload.

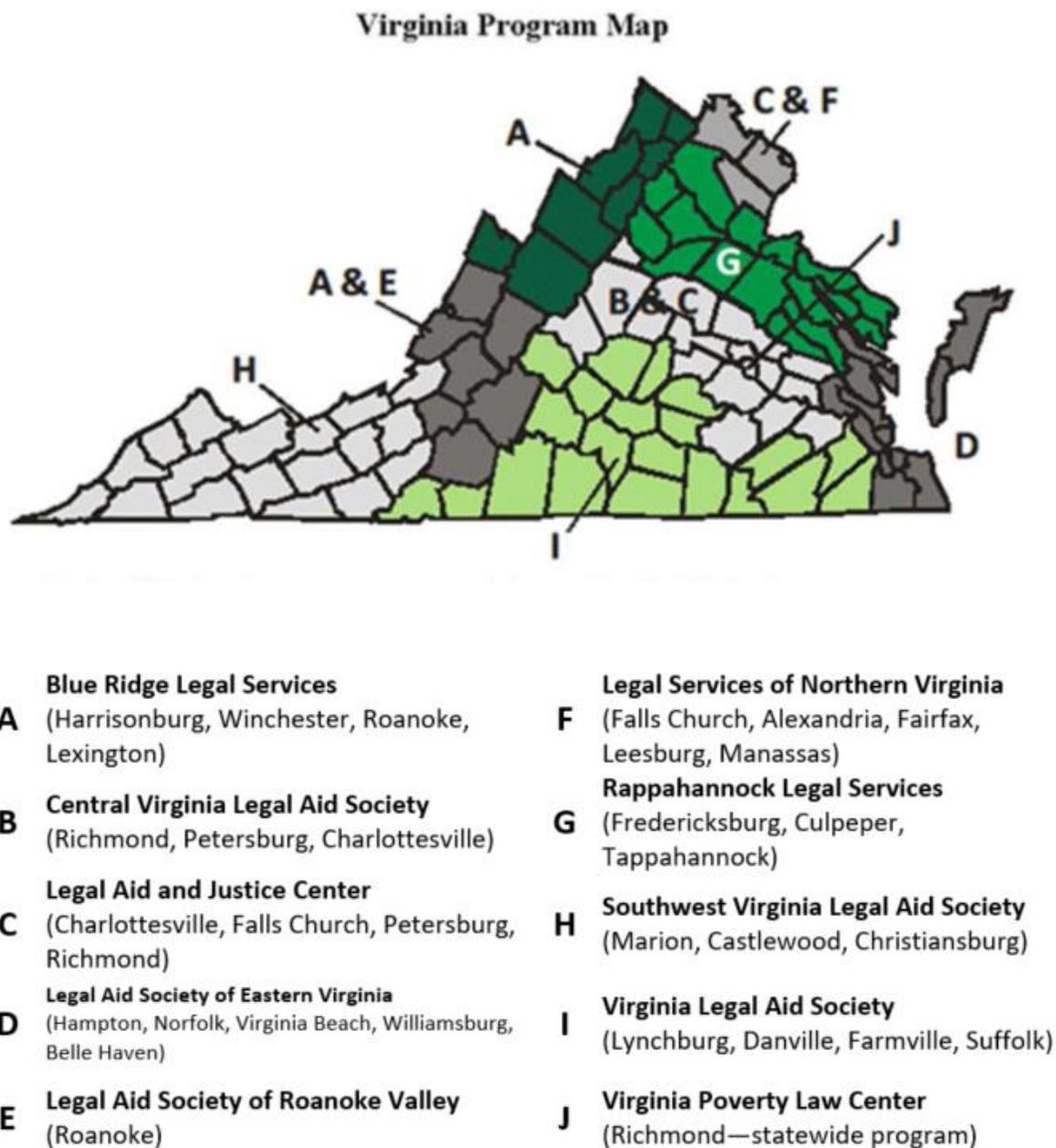
### *Court Self-Help Website*

In June 2016, the Virginia Judicial System launched its Court Self-Help website, which provides neutral legal information for self-represented litigants. The landlord-tenant page provides resources related to landlord repairs, evictions, and security deposits and refers users to VALegalAid.org, The Virginia Residential Landlord and Tenant Act Handbook, and the DHCD website.<sup>27</sup> The Virginia state Law Library covers the annual costs of the self-help website.

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<sup>27</sup> "Landlord-Tenant," (2019). Virginia judicial System Court Self-Help: Resources for Self-Represented Litigants in Virginia. Retrieved from <https://selfhelp.vacourts.gov/node/10>

Figure 2: Legal Aid Program Map by Service Area



Source: "Find Your Closest Legal Aid Program," The Virginia Bar Association (2019)

## Local Resources

This section outlines current eviction resources available in localities with the highest eviction rates. Local eviction prevention and diversion resources vary greatly depending on local capacity. Many localities implement statewide programs through Department of Social Services local and regional offices. Resources highlighted in this section of the report include those unique to that locality and do not include statewide programs implemented at the local level.

DHCD is in the process of reaching out to all seven localities with the highest eviction rates and those participating in the statewide Eviction Diversion Pilot Program beginning July 1, 2020. The resources below provide a snapshot of local resources based on preliminary research and conversations with localities.

### Hampton

#### *Curb Appeal Matching Grant Program*

The aim of this program is to provide matching funds of up to \$5,000 or 50 percent of the cost of improvement (whichever is less) to improve the exterior of properties located in targeted areas of Hampton. The program is available to single-family and duplex, owner-occupied and rental units regardless of income. While this program is for the exterior of the home, some projects such as window replacements can improve a home's weatherization and lower utility costs.<sup>28</sup>

Hampton does not currently offer a rental assistance program aside from its Section 8 voucher program administered through the Hampton Redevelopment and Housing Authority.

### Richmond

#### *Eviction Diversion Pilot Program*

In August 2019, the City of Richmond, in conjunction with the Central Virginia Legal Aid Society and Housing Opportunities Made Equal (HOME), launched its voluntary Eviction Diversion Pilot Program. The program provides a total of \$400,000 in emergency rental assistance and a payment plan option to those facing evictions in the city. Tenants are also provided in-court mediators who provide pro-bono legal services and refer clients to support services. More information on the Eviction Diversion Pilot Program can be found in *Appendix C: Existing Eviction Prevention/Diversion Best Practices*.

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<sup>28</sup> "Curb Appeal Matching Grant Program." City of Hampton. Retrieved from: <https://hampton.gov/2112/Curb-Appeal-Matching-Grant-Program>

### *ACTS Emergency Rental Assistance*

ACTS is a small nonprofit formed in 2006 that works with the regional faith-based community and private donations to provide eviction prevention assistance pre-unlawful detainer. Eligible clients are those who have otherwise sustainable income but have a one-time financial crisis. There is a yearly cap on assistance per client that can be used for rental assistance, back rent, utilities, security deposits, and other housing-related items. Clients enter the system through a coordinated screening process that begins with a phone intake. If clients are screened-in, they meet in-person for financial counseling and budgeting. Once a client is served by ACTS, they are always a client and can take advantage of financial resources. ACTS also tries to direct clients to other resources if the organization cannot provide the services.<sup>29</sup>

### *RVA Eviction Lab*

The RVA Eviction Lab, funded by VCU's Center for Urban and Regional Analysis, provides data analysis on evictions to support local government, non-profit, and other advocates in their work. The Lab addresses the qualitative and quantitative aspects of evictions including its impact on education and health and the demographics of eviction.<sup>30</sup>

## **Current Eviction Resource Gaps**

While Virginia does have some current resources available to mitigate evictions, many of those resources are either limited in scope or not available statewide. Many current emergency rental assistance programs only offer assistance to specific populations, such as TANF recipients, or after an unlawful detainer is filed. This means that many tenants either do not qualify for assistance or have to wait later in the eviction process to receive assistance. Local rental assistance varies greatly with some localities having no rental assistance programs even though their rental population nears 50 percent. A summary of existing resources and gaps is listed below:

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<sup>29</sup> Based on interview with ACTS (2019).

<sup>30</sup> "RVA Eviction Lab." Center for Urban and Regional Analysis. Retrieved from: <https://cura.vcu.edu/ongoing-projects/rva-eviction-lab/>

Table 3: Summary of Current Eviction Resources and Gaps in Services

<b>Current Eviction Resources*</b>			
<b>Outreach and Education</b>	<b>Resources and Supports</b>	<b>Housing Standards and Enforcement</b>	<b>Legal Processes and Policies</b>
-2-1-1 VIRGINIA -VPLC Eviction Helpline	-TANF Diversion Program -State Rental Assistance Program -Flexible Funding -Utility Assistance -Affordable and Special Needs Housing	-Virginia Uniform Statewide Building Code/Virginia Maintenance Code - Rental Inspection Districts -Local Rental Rehabilitation Programs	-Regional Legal Aid Programs -Court Self-Help Website
<b>Limitations and Resource Gaps</b>			
<b>Outreach and Education</b>	<b>Resources and Supports</b>	<b>Housing Standards and Enforcement</b>	<b>Legal Processes and Policies</b>
2-1-1 currently not a comprehensive list of eviction resources	Many resources are directed towards a specific target population (ex. TANF eligible, intellectual or developmental disability, etc.)  Many resources are provided <i>after</i> a tenant receives an unlawful detainer  Not every locality has a rental assistance program	Not every locality has a rental maintenance program and some are more robust than others; not all localities adopt the Virginia Maintenance Code or Rental Inspection District Ordinances	Caseloads per client for legal aid programs is high; not every tenant in court is represented

\*Note: This is not a comprehensive list. DHCD will continue to examine existing resources at the state and local levels that can prevent or divert evictions.

## RECOMMENDATIONS TO EXPAND ON EXISTING RESOURCES

*This section recommends how the Commonwealth can decrease eviction rates based on gaps in current services and best practices. DHCD suggests that the Commonwealth: 1) implement an eviction prevention and diversion pilot program and 2) implement a statewide eviction data collection system to help mitigate evictions in the Commonwealth.*

### 1) Design and Implement an Eviction Prevention and Diversion Pilot Program

Cost burden is a significant contributor to eviction since a majority of eviction cases are for nonpayment of rent. Roughly half of forced moves in one study were attributed to income losses including being laid off, a reduction in hours, and unstable housing from the start of tenancy.<sup>31</sup> Interventions that increase household income and reduce cost burden, either through housing supports or decreasing debt, have been associated with fewer evictions. Studies have found that Medicaid expansion, raising the minimum wage, and providing access to emergency housing aid are all correlated with lower eviction rates and cost burdens.<sup>32</sup> In Milwaukee, giving tenants facing eviction aid through the American Recovery and Reinvestment Act was associated with a 15 percent decrease in formal evictions.<sup>33</sup> In Lansing, Michigan, a program similar to Richmond's Eviction Diversion Pilot Program was associated with a 13 percentage point decrease in the number of evictions through a combination of legal aid, tenant outreach, and financial assistance.<sup>34</sup> Arlington County has one of the lowest evictions rates in the Commonwealth due to its comprehensive crisis response system that includes local subsidies to bridge housing affordability, a strong prevention program with flexible financial assistance for tenants and the prioritization of eviction prevention in its policies.

Similar to other methods that decrease cost burden for low-income renters, eviction prevention programs can mitigate evictions by providing emergency rental assistance prior to an unlawful detainer filing. Virginia currently does not have a statewide eviction prevention program. Most current eviction prevention resources in Virginia are confined to specific localities and can only be utilized after a landlord files an unlawful detainer. While emergency rental assistance funds post-unlawful detainer can prevent an eviction, requiring an unlawful detainer filing prior to fund disbursement can still damage a renter's record even if formal eviction does not occur.

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<sup>31</sup> Desmond, M., & Gershenson, C. (2016). "Housing and Employment Insecurity among the Working Poor."

<sup>32</sup> Allen, H. L., Eliason, E., Zewde N., & Gross, T., (2019). "Can Medicaid Expansion Prevent Housing Evictions?" *Health Affairs* 38(9), 1451-1457. doi: 10.1377/hlthaff.2018.05071; Nolan, L., Dickson, A., Bruno, R. & Smith, J. (2016). "The Impact of a Minimum Wage Increase on Housing Affordability in Illinois." Project for Middle Class Renewal. Retrieved from: <https://ler.illinois.edu/wp-content/uploads/2016/11/Min-Wage-Housing-10-28.pdf>; Desmond, M. (2015). "Unaffordable America."

<sup>33</sup> Ibid.

<sup>34</sup> Gamber, N., Galvin, J., Sanders, A. (2017). "An Analysis of the Eviction Diversion Program at the 54-A District Court." Retrieved from: <https://www.lansingmi.gov/DocumentCenter/View/5528/2017-Eviction-Diversion-Pilot-Program-Final-Report>

In order to reduce eviction rates across the Commonwealth, Governor Northam included a \$6.6 million investment in his proposed biennial budget for an eviction prevention and diversion pilot program. The Department of Housing and Community Development (DHCD) plans to solicit feedback on program guidelines through a stakeholder input session in advance of finalizing program guidelines. The pilot will cover costs associated with situations where unforeseen circumstances make it impossible for the tenant to make a monthly payment. DHCD proposes local or regional eviction efforts competitively apply for funds to ensure that participating communities will have the capacity and resources to effectively implement the program. Applicants will be able to choose to apply for funding to implement local/regional prevention and/or diversion programs. DHCD proposes priority be given to pilot program applicants that serve a locality or region with high rates of evictions including Danville, Hampton, Petersburg, and Richmond, which are part of the 2019 General Assembly mandatory Eviction Diversion Pilot Program. It is further proposed that successful applicants will implement a systems approach to use existing resources, provide a local match, collaborate with local departments of social services, and link individuals to legal aid resources.

## 2) Implement a Local Eviction Data Collection System

The General Assembly tasked DHCD and the Virginia Housing Commission to “identify the impact of legislation that passed the 2019 session of the General Assembly” and conduct “data collection pursuant to Senate Bill 1450 [Eviction Diversion Pilot Program].”<sup>35</sup> While data collection is necessary to evaluate the impact of the 2019 General Assembly Legislation and any new pilot program, Virginia is currently limited in its knowledge about evictions. Aside from the Princeton Eviction Lab’s 2016 eviction estimates, Virginia lacks a statewide, real-time understanding of evictions across the Commonwealth. Access to statewide eviction data is important for understanding current eviction trends and measuring future eviction pilot programs.

To assess future eviction programs, DHCD recommends implementing a local eviction data collection system pilot. This system would complement the proposed Eviction Prevention and Diversion Pilot Program and the Mandatory Eviction Diversion Pilot program to be implemented in Danville, Petersburg, Richmond and Hampton beginning on July 1, 2020. DHCD will work in conjunction with local courts, the Executive Secretary of the Virginia Supreme Court, and local governments to implement the eviction data collection pilot with the goal of having aggregate, local eviction data. This pilot will identify potential metrics and service gaps to monitor eviction mitigation in each participating locality. If proven effective this pilot would be scaled up to create a statewide eviction data collection system in the future.

Potential metrics to include in the Local Eviction Data Collection Pilot are:

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<sup>35</sup> V.A. General Assembly (2019). Budget Amendment HB1700 Item 105 #2C: Eviction Diversion and Prevention Study. Retrieved from: <https://budget.lis.virginia.gov/amendment/2019/1/HB1700/Introduced/CR/105/2c/>

- Total Eviction Filings
- Total Eviction judgements (writs of possession)
- Filings Received by Sheriff's Office for Eviction
- Evictions Cancelled by Landlord
- Evictions Executed by Sheriff's Office

## **CONCLUSION**

The legislative package that passed during the 2019 General Assembly Session is in the beginning stages of implementation and its impact on evictions in the Commonwealth. DHCD will continue to work with the Virginia Housing Commission and other stakeholders to gather data and other information to evaluate the effects of the legislation on evictions as well as provide further recommendations that complement these efforts. DHCD will also focus on designing further options to fully collect evictions data and will work to implement a national model program for locally delivered eviction prevention and diversion through the pilot program proposed in the biennial budget.

## APPENDIX A. GLOSSARY OF TERMS

Alternative Payment Arrangement: Reimbursement for a service(s) that is not based on payment for delivery of a unit of service. Examples of alternative payment arrangements include a daily or monthly payment rate, or a bundled payment for an identified package of services.

Area Median Income (AMI): HUD defined income cutoffs used for program eligibility based on the median income of the area. 80 percent AMI is low-income, 50 percent AMI very low-income and 30 percent AMI extremely low-income. HUD adjusts a locality's median income every 5 years using ACS Census data.

Cost Burdened: HUD defines a household as cost burdened if they pay more than 30 percent of their net income on housing costs

Eviction Diversion: Eviction interventions that occur after a landlord files an unlawful detainer.

Eviction Prevention: Eviction interventions that occur prior to receiving an unlawful detainer.

Formal eviction: An eviction that goes through the formal court process where the tenant receives an unlawful detainer, a judgement of possession, and write/execution of eviction

Informal eviction: Eviction that does not go through the formal court process—examples of informal evictions include lock outs and verbal evictions.

Pay or Quit Notice: A notice given to a tenant five days after the rent is due—this gives the tenant 5 days to pay the rent with the late fee or the landlords will begin court proceedings (also known as Second Right of Redemption).

Severely Cost Burdened: Severely cost burdened households spend 50 percent or more of their take home pay on housing costs.

Unlawful Detainer: A court summons given to a tenant 11-12 days after rent is due. An unlawful detainer begins the formal eviction process.

## **APPENDIX B: VIRGINIA'S EXISTING EVICTION PREVENTION/DIVERSION BEST PRACTICES**

*This appendix summarizes DHCD's observations about best practices in eviction prevention and diversion in Virginia based on direct reporting from stakeholders.*

### **Arlington, VA**

According to the *2019 Preventing Evictions in Arlington* report, Arlington County uses a variety of local resources and crisis response system services to prevent evictions in the county. The Arlington Department of Human Services is the lead agency operating the County's Centralized Access System.

The Arlington Continuum of Care, a core network of interconnected programs and services, serves as the foundation for a broader community partnership that works to address homelessness and to provide housing stability for families and individuals.

According to the report, Arlington County has steadily increased its number of committed affordable housing units (CAFs). The current inventory of over 8,000 CAF units has created stability for families living in these homes.

Arlington County also administers the federal Housing Choice Voucher program and a local Housing Grants program that provides rental assistance to low-income working families, seniors, and people with disabilities. In FY 2018, an average of 1,234 households per month received Housing Grant assistance.

The three largest nonprofits providing affordable housing in Arlington County, AHC, Inc., Arlington Partnership for Affordable Housing (APAH), and Wesley Housing Development Corporation, employ eviction prevention methods to keep eviction rates low.

The AHC, Inc. Eviction Prevention Program, renamed "HOMES," refers at-risk residents to agencies for emergency assistance funds and serves as the liaison to connect residents to additional resources for food, clothing, furniture, employment, and other needs. AHC works with Northern Virginia Community College and Virginia Cooperative Exchange to provide residents with employment services and financial literacy classes to increase economic stability.

According to the Arlington report, APAH's resident services assisted over 720 residents with eviction prevention support in 2017. APAH's eviction prevention program supports residents who have been filed to court due to late payment or received notices on lease violations. APAH also has limited emergency funds available to meet short-term emergency needs. These supports result in APAH preventing an average of two evictions per month.

In 2016, Wesley Housing hired a housing specialist to provide case management and linkage and referral services to individuals and families at risk of eviction. The housing specialist works

in collaboration with property management on intentional engagement with residents to provide housing stability services. Securing additional staff skilled in crisis intervention and case management has helped prevent evictions in Arlington County.

## Richmond, VA

The City of Richmond has the second highest eviction rate in the country at 11.44 percent. Based on a 2018 Central Virginia Legal Aid Society (CVLAS) survey of eviction hearings, the average back rent owed was \$1008 in cases where a judgement was rendered.

To address Richmond's high eviction rate, the city began the implementation of its voluntary eviction diversion pilot program in September 2019. This program is structured similar to the state mandatory Eviction Diversion Program pilot, which goes into effect in July 2020 and will operate in the cities of Danville, Hampton, Petersburg, and Richmond. Key elements of the program include pro-bono attorneys to serve as in-court mediators, financial assistance to eligible tenants, financial literacy education, and a payment plan agreement. The program is administered in partnership with the CVLAS and Housing Opportunities Made Equal of Virginia (HOME). CVLAS provides legal assistance and mediation while HOME manages the financial assistance screening and financial literacy education. Richmond's eviction diversion pilot program secured over \$400,000 in city funding to administer the program and provide financial assistance to Richmond City residents who qualify.<sup>36</sup>

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<sup>36</sup> "Addressing Evictions in Richmond." City of Richmond. Retrieved from: <http://www.richmondgov.com/PressSecretaryMayor/robocopy/documents/AddressingEvictionRVA.pdf>